

CITY OF SEATTLE
ORDINANCE _____
COUNCIL BILL _____

AN ORDINANCE relating to land use and zoning; amending Sections 23.41.012, 23.47A.005, 23.73.002, 23.73.005, 23.73.006, 23.73.008, 23.73.009, 23.73.010, 23.73.012, 23.73.014, 23.73.024, and 23.84A.008, and adding a new Section 23.73.015 to the Seattle Municipal Code to strengthen measures for maintaining and enhancing the character of the Pike/Pine neighborhood by addressing the bulk and scale of new development and the use of incentives for retaining character structures, clarifying and strengthening provisions for retaining character structures, removing restrictions on nonresidential uses under certain conditions, and making corrections.

WHEREAS, in July 2009, the City Council adopted Ordinance 123020, renaming the overlay district the Pike/Pine Conservation Overlay District, expanding its boundaries, and adding provisions that limit the scale of new projects, encourage new projects to retain existing structures as part of a development site, provide spaces for small businesses at street level, accommodate facilities serving the arts, and further the preservation and enhancement of the unique character of the Pike/Pine neighborhood; and

WHEREAS, in September, 2010, the City Council adopted Ordinance 123392, which revised the Neighborhood Design Guidelines for the Pike/Pine Urban Center Village to better reflect conservation goals and update the text and illustrations to clarify community priorities; and

WHEREAS, in December, 2011, the City Council adopted Ordinance 123776, which designated a Conservation Core area within the Pike/Pine Conservation Overlay District and established a transfer of development potential (TDP) program to further the conservation goals of the Pike/Pine neighborhood; and

WHEREAS, a significant amount of development has occurred following the adoption of the new regulations for the Pike/Pine Conservation Overlay District, providing the opportunity to assess how well the new standards are achieving the intended results and enabling the City to make appropriate adjustments; NOW THEREFORE,

BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:

Section 1. Section 23.41.012 of the Seattle Municipal Code, which section was last amended by Ordinance 124172, is amended as follows:

23.41.012 Development standard departures

* * *

~~((E. Departures for retaining character structures on lots in the Pike/Pine Conservation Overlay District. Departures from the conditions in subsections 23.73.010.B.2.b and 23.73.014.B.2 when retaining a character structure as part of a new project may be granted if the following conditions are met:~~

~~1. The retained portion of the character structure is sufficient to give the appearance of a free-standing structure; or~~

~~2. The newly constructed portion of the project, through vertical or horizontal modulation or other design treatments, generally provides for better integration of the physical appearance and arrangement of interior spaces between the character structure and the new project than would occur through the strict application of subsection 23.73.010.B.2.c or 23.73.014.B.2; or~~

~~3. Additional flexibility is necessary to maintain a character structure on a small development lot that is 8,000 square feet or less in size; and~~

~~4. The ground story of the character structure can accommodate the elements of the proposed new structure, such as a mezzanine or additional story, while maintaining the original character of the character structure by: retaining sufficient portions of the ground floor that are visible from the street at the original floor to ceiling height, through appropriate placement and design of the new structure, or through other design means that are consistent with the Pike/Pine Urban Center Design Guidelines.))~~

Section 2. Section 23.47A.005 of the Seattle Municipal Code, last amended by Ordinance 123939, is amended as follows:

23.47A.005 Street-level uses

A. The requirements of this Section 23.47A.005 apply in addition to the other applicable requirements of this Title 23.

1 B. Mini-warehouses, warehouses, or utility uses may not abut a street-level street-facing
2 facade in a structure that contains more than one residential dwelling unit.

3 C. Residential uses at street level((-))

4 1. In all neighborhood commercial and C1 zones, residential uses may occupy, in
5 the aggregate, no more than 20 percent of the street-level street-facing facade in the following
6 circumstances or locations:

7 a. In a pedestrian-designated zone, facing a designated principal
8 pedestrian street; or

9 b. Within the Bitter Lake Village Hub Urban Village; or

10 c. Within the Lake City Hub Urban Village, except as provided in
11 subsection 23.47A.005.C.2; or

12 d. Within a zone that has a height limit of 85 feet or higher, except as
13 provided in subsection 23.47A.005.C.2; or

14 e. Within an NC1 zone, except as provided in subsection 23.47A.005.C.2;
15 or

16 f. Within the Northgate Overlay District, except as provided in Section
17 23.71.044; or

18 g. In areas shown on Maps 1 through 60 in Map Book A at the end of this
19 Chapter 23.47A.

20 2. Subsection 23.47A.005.C.1 notwithstanding, there is no restriction on the
21 location of residential uses in the following circumstances:

22 a. Within a very low-income housing project existing as of May 1, 2006,
23 or within a very low-income housing project replacing a very low-income housing project
24 existing as of May 1, 2006 on the same site; or

b. The residential use is an assisted living facility or nursing home and private living units are not located at street level; or

c. Within a structure that:

1) is developed and owned by the Seattle Housing Authority; and

2) is located on a lot zoned NC1 or NC3 that was owned by the Seattle Housing Authority as of January 1, 2009.

3. Additions to, or on-site accessory structures for, existing single-family structures are permitted outright.

4. Where residential uses at street level are limited to 20 percent of the street-level street-facing facade, such limits do not apply to residential structures separated from the street lot line by an existing structure meeting the standards of this Section 23.47A.005 and Section 23.47A.008, or by an existing structure legally nonconforming to those standards.

* * *

D. In pedestrian-designated zones the locations of uses are regulated as follows:

1. Along designated principal pedestrian streets, one or more of the following uses are required along 80 percent of the street-level street-facing facade in accordance with the standards provided in subsection 23.47A.008.C.

a. General sales and services;

b. Major durables retail sales;

c. Eating and drinking establishments;

d. Lodging uses;

e. Theaters and spectator sports facilities;

f. Indoor sports and recreation;

g. Medical services;

h. Rail transit facilities;

- i. Museum;
- j. Community clubs or centers;
- k. Religious facility;
- l. Library;
- m. Elementary or secondary school;
- n. Parks and open space.
- o. Arts facility in the Pike/Pine Conservation Overlay District;
- p. Automotive retail sales and service uses in the Pike/Pine Conservation

Overlay District, if located within an existing structure or within a structure that retains a character structure as provided in Section 23.73.015.

The establishment of any such use is subject to the applicable use provisions of this title.

2. The following streets are principal pedestrian streets when located within a pedestrian-designated zone:

- 10th Avenue;
- 11th Avenue;
- 12th Avenue;
- 13th Avenue (between East Madison Street and East Pine Street);
- 15th Avenue East;
- 15th Avenue Northwest;
- 22nd Avenue Northwest;
- 23rd Avenue;
- 24th Avenue Northwest;
- 25th Avenue Northeast;
- Beacon Avenue South;

1 Boren Avenue;
2 Boylston Avenue (except within the Pike/Pine Conservation Overlay District);
3 Broadway;
4 Broadway East;
5 California Avenue Southwest;
6 East Green Lake Drive North;
7 East Madison Street;
8 East Olive Way;
9 East Pike Street;
10 East Pine Street;
11 East Union Street (except that within the Pike/Pine Conservation Overlay District only lots
12 abutting East Union Street between Broadway and East Madison Street);
13 Eastlake Avenue East;
14 First Avenue North;
15 Fremont Avenue North;
16 Fremont Place North;
17 Greenwood Avenue North;
18 Lake City Way Northeast;
19 Madison Street;
20 Martin Luther King Jr. Way South;
21 Mercer Street;
22 North 45th Street
23 North 85th Street;
24 Northeast 43rd Street;
25 Northeast 45th Street;

1 Northeast 65th Street;
2 Northeast 125th Street;
3 Northwest 85th Street;
4 Northwest Market Street;
5 Pike Street;
6 Pine Street;
7 Queen Anne Avenue North;
8 Rainier Avenue South;
9 Roosevelt Way Northeast;
10 Roy Street;
11 South Alaska Street;
12 South Henderson Street;
13 South Lander Street;
14 South McClellan Street;
15 South Othello Street;
16 Southwest Alaska Street;
17 Summit Avenue (except within Pike/Pine Conservation Overlay District);
18 Terry Avenue;
19 University Way Northeast;
20 Wallingford Avenue North; and
21 Woodlawn Avenue Northeast.

22 Section 3. Section 23.73.002 of the Seattle Municipal Code, which section was last
23 amended by Ordinance X, is amended as follows:

24 **23.73.002 ((-)) Purpose and intent**
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1 The purpose of this ~~((chapter))~~ Chapter 23.73 is to implement Resolution 28657, calling
2 for development of the Pike/Pine Overlay District in order to preserve and enhance the balance
3 of residential and commercial uses, by encouraging residential development and discouraging
4 large, single-purpose commercial development. In addition, a purpose of this ~~((chapter))~~ Chapter
5 23.73 is to promote the conservation of Pike/Pine's existing historic character by limiting new
6 development to a scale that is compatible with the established development pattern,
7 accommodating arts facilities and small businesses at street level, and encouraging the retention
8 of the existing structures and their architectural features that establish the District's architectural
9 character; generally, those structures that have been in existence ~~((for 75 years or more))~~ prior to
10 1940, ("character structures") and are related to the area's early history as Seattle's original "auto
11 row".

12 Section 4. Section 23.73.005 of the Seattle Municipal Code, which section was enacted
13 by Ordinance 123776, is amended as follows:

14 **23.73.005 ~~((--))~~ Adoption of rules to implement Pike/Pine Conservation Overlay District**
15 **Regulations**

16 A. The Director shall promulgate a rule, which shall be periodically updated to reflect
17 changed conditions, listing the character structures that meet the following criteria:

- 18 1. The structure retains a high degree of architectural integrity;
 - 19 2. The structure represents the Pike/Pine neighborhood's building typology,
20 which is characterized by use of exterior materials and design elements such as masonry
21 (especially brick) and timber structures; multi-use loft spaces; very high, fully glazed storefront
22 windows; and decorative details such as cornices, emblems and embossed building names;
 - 23 3. The structure is compatible with the architectural scale, rhythm, and patterns of
24 nearby structures in the Pike/Pine neighborhood.
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1 B. A character structure may be added to or removed from the list described in
2 subsection 23.73.005.A by the Director in consultation with the Director of the Department of
3 Neighborhoods.

4 Section 5. Section 23.73.006, which section was last amended by Ordinance 123020, is
5 amended as follows:

6 **23.73.006 ((-)) Application of regulations**

7 Land that is located within the Pike/Pine Overlay District, as shown on Map A for
8 23.73.004, is subject to the regulations of the underlying zones unless specifically modified by
9 the provisions of this ~~((chapter))~~ Chapter 23.73. In the event of a conflict between the provisions
10 of this ~~((chapter))~~ Chapter 23.73 and the underlying zone, the provisions of this ~~((chapter))~~
11 Chapter 23.73 apply. In the event of a conflict between the provisions of this ~~((chapter))~~ Chapter
12 23.73 and Chapter 23.69, Major Institution Overlay District, the provisions of Chapter 23.69
13 apply.

14 Section 6. Section 23.73.008, which section was last amended by Ordinance 123020, is
15 amended as follows:

16 **23.73.008 ((-)) Street-level uses~~((Uses at street level))~~**

17 A. Street-level uses on principal pedestrian streets. Along designated principal pedestrian
18 streets shown on Map A for 23.73.008, provisions for street-level uses are established in
19 ~~((chapter))~~ Chapter 23.47A, except as modified by this ~~((section))~~ Section 23.73.008.

20 B. Space for small commercial uses at street level.

21 1. Except as provided in subsection 23.73.008.B.3, ~~((AH))~~ all new structures that
22 include more than 5,000 square feet of commercial uses at street level, excluding the floor area
23 of performing arts theaters, arts facilities, and parking and access, shall include commercial
24 space(s) at street level for small, individual business establishments that average 2,000 square
25 feet or less in size, according to Table A for 23.73.008.

Table A for 23.73.008 Commercial space for small business establishments	
Total amount of square feet in commercial use at street level as calculated in subsection 23.73.008.B	Number of required commercial spaces for individual business establishments averaging 2,000 square feet or less in size
Up to 5,000 square feet	0
More than 5,000 square feet, up to 8,000 square feet	1
More than 8,000 square feet, up to 12,000 square feet	2
More than 12,000 square feet, up to 16,000 square feet	3
More than 16,000 square feet	4, plus one additional space for each additional 4,000 square feet above 16,000 square feet, up to a maximum of 8

2. ~~((This))~~The commercial space requirement of subsection 23.73.008.B.1 applies to the total size of a business establishment, except that if a business establishment includes more than one principal use, each principal use within the business establishment may qualify as a small business establishment.

3. For projects that retain a character structure as provided in Section 23.73.015, in addition to any excluded floor area specified in subsection 23.73.008.B.1, floor area meeting the following conditions is not required to comply with subsection 23.73.008.B.1:

a. The floor area is occupied by street-level commercial uses or other uses excluded by subsection 23.73.008.B.1 and is within the original ground-floor footprint of the retained character structure; and

b. The original ground-floor space of the character structure was generally designed as a large space for such uses as automobile retail sales and service, warehouse, manufacturing, or large retail or commercial space.

C. Within new structures that face Pike, East Pike, Pine, and East Pine Streets, ((F))the length of street frontage permitted at street level for an individual business((at street level)), excluding institutional uses, ((within a new structure on Pike, East Pike, Pine, and East Pine Streets))is limited to 50 feet. Portions of a business that are separated from the street by another business or a different use that provides separate pedestrian access to the street are not limited in width. The limit on street frontage of an individual business does not apply to uses in a character structure or portions of a character structure retained in a project according to Section 23.73.015, provided that the original ground-floor space of the character structure was generally designed for use as a large space for such uses as automobile retail sales and service, warehouse, manufacturing, or large retail or commercial space.



Map A for 23.73.008
Uses at Street Level

- Pike/Pine Conservation Overlay District
- Pike/Pine Urban Village
- Principal Pedestrian Street

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 sort, including accuracy, fitness, or
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Section 7. Section 23.73.009, which section was last amended by Ordinance 123776, is amended as follows:

23.73.009 ((-)) Floor area ratio

A. For lots with residential uses only, or lots that include residential and nonresidential uses, the FAR limits of the underlying zone apply, except as provided in this Section 23.73.009 and in Section 23.73.024 for projects using transfer of development potential, and provided the gross floor area of nonresidential uses does not exceed 2 FAR, except as allowed in subsection 23.73.009.B.~~((The floor area ratio (FAR) limits of the underlying zones for residential use apply to all structures and lots within the boundaries of the Pike/Pine Conservation Overlay District, except as provided in this Section 23.73.009 and in Section 23.73.024 for projects using transfer of development potential.))~~

B. Nonresidential uses are limited to a maximum of 2 FAR, except that for development on a lot that meets all of the following conditions, the FAR limit established by the underlying zone for non-residential uses applies:

1. The lot is 18,000 square feet or less in area, excluding any lot area that is occupied by a character structure that is retained on the lot as an entire structure as provided in Section 23.73.015.A;

2. Structures on the lot shall not be internally connected above or below grade to any structure(s) on an adjacent lot, except that connections are allowed to a character structure on an adjacent lot that is retained as an entire structure according to subsection 23.73.015.A ; and

3. For lots on which character structures existed on the effective date of the ordinance introduced as Council Bill XXXXX [this legislation], the character structures shall be retained as follows:

a. If only one character structure exists on the lot, that character structure is retained either as an entire structure according to subsection 23.73.015.A, or as a portion of a

structure according to subsection 23.49.015.B, unless the Design Review Board has determined as provided in subsection 23.73.015.F that the character structure may be demolished; or

b. If more than one character structure exists on the lot, at least one character structure is retained as an entire structure according to subsection 23.73.015.A, and all other character structures are retained as either an entire structure or a portion of a structure according to subsection 23.49.015.B, unless the Design Review Board has determined as provided in subsection 23.73.015.F that a character structure may be demolished. If there are character structures on the lot that are listed in a rule promulgated by the Director according to subsection 23.73.005.A, then the structure required to be retained as an entire structure shall be one of the structures listed in the rule.

~~((1. For all structures greater than 30 feet in height, the gross floor area in non-residential use is limited to the lesser of 50 percent of the total gross floor area of all structures on a lot, or 2 FAR.~~

~~2. For development on a lot that meets all of the following conditions, the only limit on the gross floor area in non-residential uses shall be the FAR limit established by the underlying zoning for non-residential uses:~~

~~a. The lot is 18,000 square feet in area or less;~~

~~b. The lot abuts a street that is a boundary of the Pike/Pine Conservation Overlay District; and~~

~~c. The lot is across a street from a lot that is:~~

~~1) zoned NC3-65 or NC3P-65;~~

~~2) located outside the Pike/Pine Conservation Overlay District;~~

~~and~~

~~3) is not located within a Major Institution Overlay Zone.))~~

1 C. In addition to the floor area exempt under the provisions of the underlying zone, the
2 following floor area is exempt from the calculation of gross floor area subject to an FAR limit
3 (~~and from the limit on nonresidential use in 23.73.009.B~~):

4 (~~1. Nonresidential use located in a character structure provided that the non-~~
5 ~~residential use does not displace an existing residential use.~~

6 ~~2. New nonresidential floor area added to a character structure, provided that the~~
7 ~~added floor area does not exceed the equivalent of 0.5 FAR, as calculated on the lot occupied by~~
8 ~~the character structure at the time it was built.~~)

9 (~~3~~)1. The following (~~(\$)~~street-level (~~commercial~~))uses complying with the
10 standards of subsections 23.47A.008 and 23.73.008.B:

11 a. general sales and services;

12 b. major durables retail sales;

13 c. eating and drinking establishments;

14 d. museums;

15 e. religious facility;

16 f. library; and

17 g. automotive retail sales and service uses located within an existing
18 structure or within a structure that retains a character structure as provided in Section 23.73.015.

19 (~~4~~)2. Floor area used for the creation, display, performance, or screening of art
20 for members of the general public, including theaters, and floor area used by an arts facility.

21 (~~5~~)3. All floor area in residential use in a development that (~~meets the~~
22 ~~provisions~~)retains all character structures on the lot, either as an entire character structure, as
23 provided in subsection 23.73.015.A, or a portion of a character structure, as provided in
24 23.73.015.B(~~of 23.73.010.B.2, provided that development of the lot does not require the~~
25 ~~removal of a character structure listed in a rule promulgated by the Director according to Section~~

~~23.73.005~~)), unless, on a lot with more than one character structure, the Design Review Board has determined as provided in subsection 23.73.015.F that a character structure may be demolished.

((6))4. In areas where the underlying zoning is NC3P 65, all floor area on a lot that is 8,000 square feet or less in area and has been either vacant or in parking use as of February 27, 1995.

Section 8. Section 23.73.010, which section was last amended by Ordinance 123776, is amended as follows:

23.73.010 ((-)) Floor size limits outside the Conservation Core

A. Floor size limit. The following provisions apply to lots located outside the boundaries of the Conservation Core identified on Map A for 23.73.010.

1. ~~((On lots greater than 15,000 square feet in size, t))~~The maximum gross floor area of any single story above 35 feet in height is limited to 15,000 square feet, except as provided in subsection 23.73.010.B.~~((The floor size limit does not apply to non-residential uses in a structure developed on a lot according to subsection 23.73.009.B.2.))~~

2. On a lot with more than one structure or portions of the same structure that exceeds 35 feet in height, the floor size limit applies to the combined portions of each ~~((structure above))~~ story above 35 feet in height.

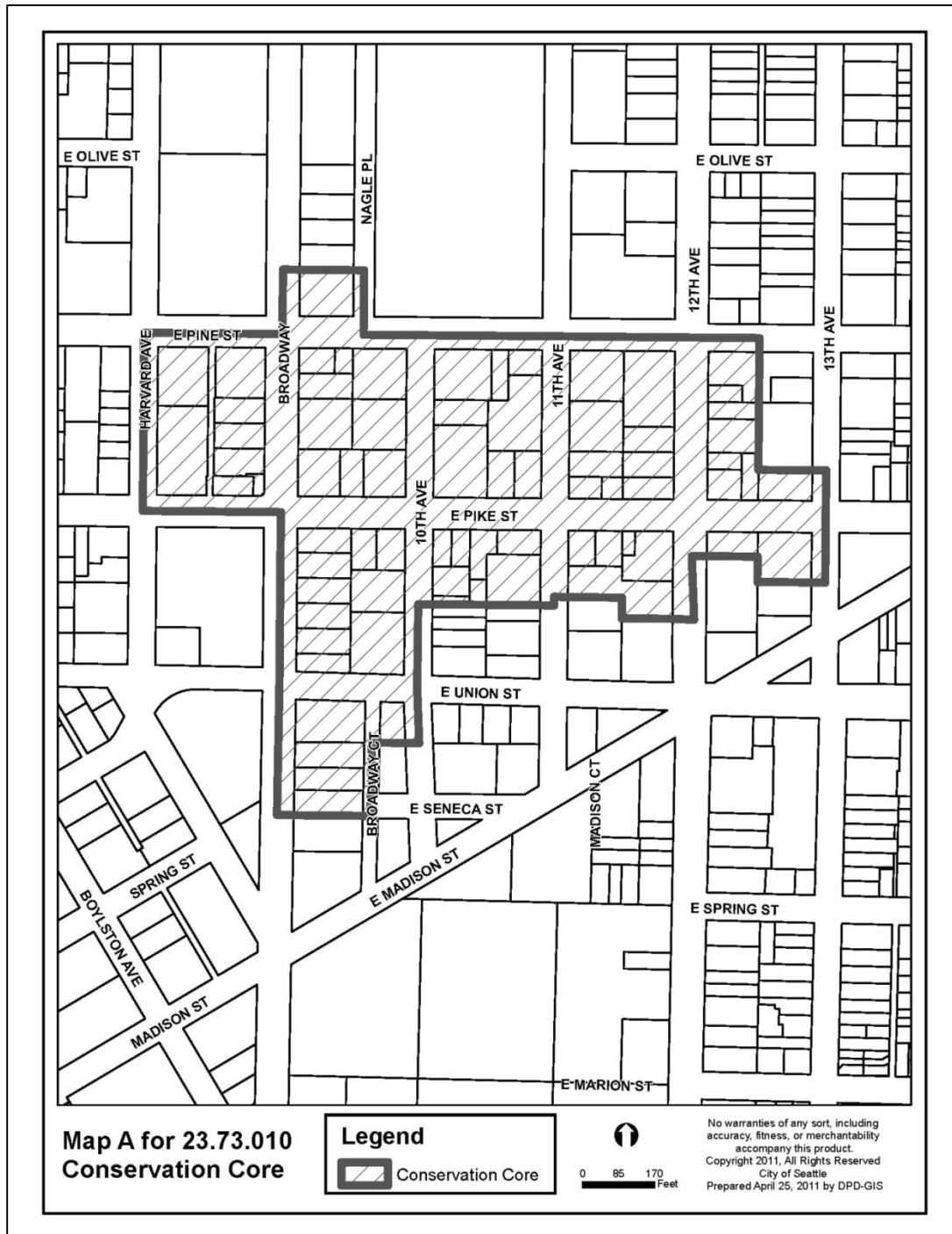
~~((3. On a lot where more than one portion of the same structure exceeds 35 feet in height, the floor size limit applies to each portion of the structure above 35 feet in height. If the separation between portions of a structure above 35 feet in height is less than 40 feet, the floor area of each story in the separated portions of the structure shall be combined to determine the floor area subject to the floor size limit.))~~

~~((4))~~3. If new structures on the same or abutting lots have internal connections above or below grade~~((the first story))~~, the connected stories~~((structures))~~ are considered to be a

single ~~((structure))~~story for the purpose of calculating the floor area subject to the floor size limit, unless the structure to which the connection is made is a character structure that is retained as an entire structure according to subsection 23.73.015.A.

~~((5))~~4. For a project that retains an entire character structure on the lot according to the provisions of subsection 23.73.015.A, any floor area above 35 feet in height within the character structure, whether connected to a new structure or not, is not included in the calculation of the floor area subject to the limit on floor size.

Map A for 23.73.010: Pike/Pine Conservation Core



B. Exceptions to floor size limit((-))

1. ~~((For a structure with a minimum of 50 percent of the total gross floor area in residential use, the Director may permit, as a Type I decision, an))~~ A 15 percent increase in the floor size limit ((of up to 15 percent))is permitted on lots with an area of 30,000 square feet or less, not counting any area occupied by a character structure, for projects that meet the following conditions, provided that ~~((to allow additional development flexibility to promote neighborhood conservation objectives and design that minimizes the overall appearance of the project's bulk. No))~~no increase in floor size is permitted under this subsection 23.73.010.B.1 for a project that will result in the demolition of a character structure, unless the Design Review Board has determined as provided in subsection 23.73.015.F that the character structure may be demolished. ((In order for a structure to qualify for an increase in floor size area, one or more of the following conditions must exist:))

~~((a. Conditions in the vicinity of the lot minimize the impact of additional development bulk on the existing character of the area. Such conditions include locations on the edges of the Pike/Pine Conservation Overlay District where development on large lots already exists, or where irregularities in the street grid have created small blocks ((or))of a single lot surrounded on all sides by streets; or~~

b. The proposed new project includes features that offset the perceived scale of development, such as a landscaped courtyard that is visible from the sidewalk and located primarily at street level on a street that is not a principal pedestrian street; or))

~~((e))~~a. The ((increase in floor size is for a mixed-use))project ((that)) includes uses ((contributing)) that contribute to the area's recognized character as an arts district, including performing arts space and ((artist-))artist-studio dwellings((live/work space,)) that typically have design requirements such as nonstandard floor-to-ceiling heights that reduce the total amount of usable floor area in a structure; or

1 ~~((d))~~b. ~~((The additional floor area will facilitate development of))~~A
2 minimum of 50 percent of the total gross floor area of the project is housing that is affordable to
3 and occupied by "income-eligible households," as defined in Section 23.58A.004, ~~((for a~~
4 ~~minimum of 50 percent of the total gross floor area of the project))~~ and is subject to covenants
5 ensuring that the housing remains available to these households for a minimum of 50 years.

6 2. Retaining character structures on a lot. A 25 percent increase in the floor size
7 limit established in subsection 23.73.010.A is permitted for projects that retain all
8 ~~the~~~~((incorporate a))~~ character structures on the same lot, either as ((a)) an entire~~((whole))~~
9 structure or as a portion of a structure, ((according to the following provisions.)) as provided in
10 Section 23.73.015, unless the Design Review Board has determined as provided in subsection
11 23.73.015.F that a character structure may be demolished, and except as follows:

12 ~~((a. No increase in floor size is permitted under the provisions of this~~
13 ~~subsection 23.73.010.B.2 for a project that will result in the demolition of a designated Seattle~~
14 ~~landmark, or of a character structure listed in a rule promulgated by the Director according to~~
15 ~~Section 23.73.005.))~~

16 a. No increase in floor size is permitted for a project that is allowed an
17 increase in FAR for nonresidential uses above 2 FAR under the provisions of subsection
18 23.73.009.B.

19 ~~((b. One character structure must be retained for each new structure or~~
20 ~~portion of a structure that is subject to the floor size limit in order for the new structure or portion~~
21 ~~of a structure to qualify for the 25 percent increase in floor size.~~

22 c. For a project that incorporates portions of a character structure, the
23 following conditions shall be met:

24 1) ~~All street-facing facades of the character structure are retained;~~

2) ~~All portions of the new structure above the height of the street-facing facades of the character structure are set back a minimum of 15 feet from all street property lines that abut the character structure; and~~

3) ~~The original floor to ceiling height of the ground story is maintained.~~

d. ~~Any floor area in a new portion of the structure above 35 feet in height that is within the area of the original footprint of the character structure and is separated from the street along all street frontages by the original facades of the character structure is not included in the calculation of the floor area subject to the floor size limit.))~~

((e))b. ~~((A project that is granted an increase in floor size under the provisions of this subsection 23.73.010.B.2 shall maintain the character structure, or portions of the character structure, both interior and exterior, in good condition and repair and in a manner that preserves unique features and characteristics for the life of the project.))Any increase in floor size permitted according to this subsection 23.73.010.B.2 shall not be combined with any increase in floor size permitted according to ((Section))subsections 23.73.010.B.1 or 23.73.010.B.3.~~

3. A 25 percent increase in the floor size limit is permitted on the receiving site of a project that adds floor area through the use of TDP as permitted by Section 23.73.024, provided that the amount of floor area added through the use of TDP is equivalent to at least 0.25 FAR, as calculated for the receiving site. Any increase in floor size permitted according to this subsection 23.73.010.B.3 shall not be combined with any other increase in floor size permitted according to subsections 23.73.010.B.1 or 23.73.010.B.2.

Section 9. Section 23.73.012, which section was last amended by Ordinance 123776, is amended as follows:

23.73.012 ((-)) Structure width and depth limits

~~((A. The structure width and depth limits in this Section 23.73.012 apply to lots that contained a character structure on the effective date of the ordinance introduced as Council Bill 117235.))~~

~~((B))~~A. Structure width limit outside the Conservation Core. Outside the Conservation Core identified on Map A for 23.73.010, for all portions of a structure that abut Pike, East Pike, Pine, or East Pine Streets, structure width shall be limited to 50 percent of the total width of all lots on the block face, measured along the street lot line on block faces that exceed 170 feet in width, except that the structure width limit calculation does not include the following:

1. Portions of a character structure, whether connected to a new structure or not;
2. Portions of a new structure that are separated from the street ~~((property))~~lot line by another lot;

3. Portions of a new structure that are separated from the street ~~((property))~~lot line by an adjacent structure located on the same lot that is not a character structure, provided that the adjacent structures are not internally connected above or below grade;

4. Portions of a new structure that are separated from the street ~~((property))~~lot line by a character structure or by the remaining portions of a character structure included in a project ~~((as allowed by subsection 23.73.010.B.2))~~ that meet the conditions of Section 23.73.015.

B. Structure width and depth limits inside the Conservation Core. The structure width and depth limits in this Section 23.73.012.B apply to lots that are located inside the Conservation Core identified on Map A for 23.73.010.

1. Both the width and the depth limit for structures on lots that contained a character structure on January 18, 2012 is 128 feet. The width limit is measured as the combined width of all structures located on the lot and the depth limit is measured as the combined depth of

all structures located on the lot, except as provided in subsection 23.73.012.B.2 and 23.73.012.B.4.

~~((C. Structure width limit inside the Conservation Core. Inside the Conservation Core identified on Map A for 23.73.010, the structure width limit on block faces that exceed 170 feet in width is 128 feet, measured along the street lot line, except that the structure width limit calculation does not include the following:~~

~~1. Portions of a character structure, whether connected to a new structure or not; and~~

~~2. Portions of a new structure that are separated from the street property line by a character structure or by the remaining portions of a character structure included in a project as allowed by subsection 23.73.010.B.2, provided that the new structure does not result in the total demolition of any character structure on the lot.~~

~~D. Structure depth limit inside the Conservation Core. Inside the Conservation Core identified on Map A for 23.73.010, structure depth shall be limited to 128 feet, measured as the combined depth of all structures located on the lot, except that portions of a character structure, whether connected to a new structure or not, are not included in calculating structure depth)).~~

2. The following are excluded from structure width and depth measurements, provided that the new structure does not result in the total demolition of any character structure on the lot, unless the Design Review Board has determined as provided in subsection 23.73.015.F that the character structure may be demolished:

a. A character structure, whether connected to a new structure or not, that is retained as an entire structure according to the provisions of Section 23.73.015.A.

b. Portions of a new structure that are separated from the street lot line by a character structure that is retained as an entire structure according to the provisions of Section 23.73.015.A.

c. Portions of a new structure that extend over and are separated from the street lot line by the remaining portions of one character structure retained on the lot according to the provisions of Section 23.73.015.B. This exclusion from width and depth measurement is only allowed for one retained character structure on the lot.

3. For lots that did not contain a character structure on January 18, 2012, there are no limits on width and depth for portions of a structure that do not exceed 35 feet in height. For portions of a structure that exceed 35 feet in height, both the width limit and the depth limit is 128 feet, measured as the combined depth of all structures located on the lot, except as provided in 23.73.012.B.4.

4. For the narrow block bounded by Broadway, East Union Street, Broadway Court, and East Madison Street, the depth limit does not apply to structures on through lots extending from Broadway to Broadway Court, and the width limit only applies to frontages on Broadway and Broadway Court.

Section 10. Section 23.73.014, which section was last amended by Ordinance 123776, is amended as follows:

23.73.014 ((-)) Height exceptions

A. Height Exception for ~~((Mixed Use Structures))~~ street level uses. In zones with a mapped height limit of 65 feet, up to four feet of additional height is allowed above ((the Director may permit the height of a mixed use structure to exceed-)) the height limit of the zone ~~((by up to 4 feet, only))~~ if the structure includes ~~((residential use and either the))~~ nonresidential use or ~~((the-))~~ live-work units at street level ~~((are located in the same structure))~~ and ~~((empty))~~ complies with the following:

1. The floor-to-ceiling height of the nonresidential use or live-work unit located at street level ~~((requires a floor-to-ceiling height that))~~ exceeds 13 feet ~~((to support business operations))~~; and

2. The additional height will not permit an additional story to be built beyond the number that ((what)) could be built under a 65-foot height limit((if a floor-to-ceiling height of more than 13 feet is not needed to support street-level nonresidential uses.)); and

3. The transparency requirements for street-facing façades in subsection 23.47A.008.A.2 ((shall apply to)) are met for the portion of the street-facing façade between 2 feet and 12 feet above the sidewalk. Only clear or lightly-tinted glass shall be considered transparent. For portions of a character structure that are included in a new project according to the provisions of subsection 23.73.015.B, the street-facing facades of the character structure shall be considered to be an existing structure, and additional transparency under this subsection 23.73.014.A.3 shall not be required.

B. Height exception for lots that include a character structure. In zones with a 65-foot mapped height limit, or with a 40-foot mapped height limit with provisions allowing for additional height up to 65 feet according to subsection 23.47A.012.A, ten feet of additional height is allowed above ((the Director may permit the height of a structure to exceed)) the 65 foot height limit ((of the zone by 10 feet, subject to)) if the following requirements are met:

1. The lot includes a character structure or a portion of a character that is retained according to the provisions of Section 23.73.015.

~~((2. If a project incorporates a character structure on the lot, the project meets the following conditions:~~

~~a. All street-facing facades of the character structure shall be retained;~~

~~b. All portions of the new structure above the height of the street-facing facades of the character structure shall be set back a minimum of 15 feet from all street property lines that abut the character structure; and~~

~~c. The original floor-to-ceiling height of the ground story shall be maintained.))~~

1 ((3))2. The additional floor area above the 65-foot height limit is occupied solely
2 by residential use;

3 ((4))3. The project will not result in the demolition of a designated landmark or a
4 character structure, unless the Design Review Board has determined as provided in subsection
5 23.73.015.F that the character structure may be demolished. ((listed in a rule promulgated by the
6 Director according to Section 23.73.005 or of a designated landmark, except to the extent
7 allowed in subsection 23.73.014.B.2; and))

8 5. ~~One character structure must be retained for each new structure or portion of a~~
9 ~~structure that is subject to the floor size limit in subsection 23.73.010.A in order for the new~~
10 ~~structure or portion of a structure to qualify for the 10 foot increase in height.))~~

11 C. Height exception for character structure TDP receiving sites. A height exception for
12 character structure TDP receiving sites is allowed according to subsection 23.73.024.B.

13 D. If a project uses more than one of the height exceptions permitted by this Section
14 23.73.014, the maximum height shall be the height permitted by the exception allowing the
15 greatest height increase.

16 E. Additional height for rooftop features. For structures using the height exceptions
17 specified in this Section 23.73.014, additional height is permitted above the maximum height
18 allowed by the exception to accommodate rooftop features as permitted under subsection
19 23.47A.012.((D))C.

20 Section 11. A new Section 23.73.015 is added to the Seattle Municipal code as follows:

21 **23.73.015 Retention and demolition of character structures**

22 A. For provisions in this Chapter 23.73 that require an entire character structure to be
23 retained on a lot, in addition to the conditions of the applicable section, the following conditions
24 apply:

1 1. All exterior facades are retained, except that portions of a new structure may
2 abut facades that are not street-facing facades, and connections between the new structure and
3 the character structure are allowed;

4 2. The following structural alterations and additions are permitted:

5 a. Improvements necessary to correct structural deficiencies and to
6 comply with applicable codes, including required seismic upgrades;

7 b. Improvements that return the structure more to its original built
8 condition;

9 c. Additions or alterations that extend the useful physical life or economic
10 viability of the structure, provided the additions do not do not significantly damage or destroy the
11 structural system of the character structure or fundamentally alter its exterior appearance, and
12 subject to the following:

13 1) Additions, such as penthouses, enclosed rooftop amenity area,
14 and building systems equipment are located to allow the architectural and historic qualities of the
15 structure to be dominant when viewed from the street.

16 2) Interior alterations that allow for better use of interior space,
17 such as the addition of mezzanines and the creation of light wells or atriums, are sufficiently set
18 back from street frontages to maintain the character of the original floor-to-ceiling height and
19 interior spatial relationships as viewed from the street.

20 d. Additions that allow the original height or floor area of the character
21 structure to be regained.

22 e. Improvements to the roof to accommodate space accessory to uses
23 within the project, such as outdoor dining or amenity area.

24 4. Portions of the new structure shall not extend over the character structure,
25 except that projections such as unenclosed balconies, bay windows, cornices, belt courses,
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gutters, eaves and other similar architectural features attached to abutting facades of a new structure on the lot may extend a maximum of four feet over the character structure. Access to the roof of the character structure may be provided from abutting portions of the new structure on the lot.

B. For provisions in this Chapter 23.73 that require a portion of a character structure to be retained on a lot, in addition to the conditions of the applicable section, the minimum requirements for retaining a character structure are as follows:

1. All street-facing facades of the character structure are maintained;
2. All portions of the new structure above the height of the street-facing facades of the character structure are set back a minimum of 15 feet from the street-facing facades of the character structure, except:

- a. Projections such as unenclosed balconies, bay windows, cornices, belt courses, and eaves, gutters, and other forms of weather protection may project a maximum of 18 inches into the required setback; and

- b. On through lots bounded on three or more sides by a street and less than 170 feet wide measured between streets, a setback is not required from the narrowest abutting street that is not shown as a Principal Pedestrian Street on Map A for 23.73.008.

3. The original floor-to-ceiling height of the ground story of the character structure is maintained, allowing for adjustments to provide access to persons with disabilities.

C. Entire character structures or portions of character structures that are retained pursuant to this Section 23.73.015 shall be maintained as approved by the Master Use Permit for the project for the life of the project in a manner that complies with applicable codes.

D. For the purposes of applying any applicable street-level developments standards of Section 23.47A.008, the portion of a character structure that is retained to meet the standards of subsection 23.73.015.B shall be regarded as an existing structure.

E. Departure from standards for retaining a character structure.

1. Departures from standards for retaining an entire character structure. When retaining an entire character structure as part of a new project, departures from the standards in subsections 23.73.015.A.4, including allowing portions of a new structure to extend over a character structure, may be granted if the Design Review Board determines that:

a. The departure will allow for design treatments that reduce the appearance of the bulk of the new structure and enhance the relationship between the retained character structure and the new structure;

b. The projections of the new structure over the character structure are not significantly visible from the street and will not obscure key elements of the structure's architectural character; or

c. The projections will facilitate the retention of other character structure(s) on the lot; and

d. The departure show not permit projections, in total, to cover more than 20 percent of the area of the character structure footprint.

2. Departures from standards for retaining portions of a character structure. Departures from the conditions in subsections 23.73.015.B when retaining a portion of a character structure as part of a new project may be granted if the following conditions are met:

a. The retained portion of the character structure is sufficient to give the appearance of a free-standing structure; or

b. The newly-constructed portion of the project, through vertical or horizontal modulation or other design treatments, generally provides for better integration of the physical appearance and arrangement of interior spaces between the character structure and the new project than would occur through the strict application of subsection 23.73.015.B; or

c. Additional flexibility is necessary to maintain a character structure on a

small development lot that is 8,000 square feet or less in size; and

d. The ground story of the character structure can accommodate the elements of the proposed new structure, such as a mezzanine or additional story, while maintaining the original character of the character structure by: retaining sufficient portions of the ground floor that are visible from the street at the original floor to ceiling height, through appropriate placement and design of the new structure, or through other design means that are consistent with the Pike/Pine Urban Center Design Guidelines.

F. Demolition of character structures. The Design Review Board may approve a departure from the requirement that all character structures on a lot be retained in order to use the exception to the upper level floor size limits in subsection 23.73.010.A.2, the ten-foot height exception in subsection 23.73.014.B, the provision allowing additional FAR for nonresidential uses in subsection 23.73.009.B, and the FAR exemption for residential uses in 23.73.009.C.3, according to the following standards:

1. A departure shall not be granted if the character structure is a designated Seattle landmark, the character structure is listed in a rule promulgated by the Director according to subsection 23.73.005, or no character structures are retained on the lot;

2. A departure may be granted to allow demolition of a wood frame character structure originally built as a single-family residence or as an accessory structure such as a garage; and

3. A departure may be granted to allow demolition of character structures not addressed in subsections 23.73.015.F.1 and F.2 according to the following criteria:

a. The structure lacks a high degree of architectural integrity, as evidenced by extensive, irreversible exterior remodeling;

b. The structure does not represent the Pike/Pine neighborhood's building typology, which is characterized by one or more of the following: use of exterior materials and

design elements such as masonry, especially brick, and timber structures; multi-use loft spaces; very high, fully glazed ground-floor storefront windows; and decorative details such as cornices, emblems, and embossed building names;

c. The structure is not compatible with the architectural scale, rhythm, and patterns of nearby structures in the Pike/Pine neighborhood;

d. Demolition of the character structure would allow for more substantial retention of other, more significant character structures on the lot, such as those listed in a rule promulgated by the Director according to subsection 23.73.005, or will contribute to achieving other key neighborhood development objectives, such as improving pedestrian circulation by providing through-block connections, the development of arts and cultural facilities, or siting of open space at key neighborhood locations.

Section 12. Section 23.73.024, which section was last amended by Ordinance 123776, is amended as follows:

23.73.024 ((-)) Transfer of development potential

A. General ~~((Standards))~~standards for the transfer of development potential (TDP) within the Pike/Pine Conservation Overlay District.

1. For a lot located in an NC3P 65 zone within the Pike/Pine Conservation Overlay District shown on Map A for 23.73.004, excluding the area within the Conservation Core shown on Map A for 23.73.010, an applicant may use transferable development potential to obtain ~~((one or both))~~any of the following:

a. Additional residential and live-work unit floor area above the maximum FAR limit for a mixed use structure in subsection 23.47A.013; or

b. A height exception to allow an additional 10 feet above the 65-foot height limit~~((:))~~; and

c. A 25 percent increase in the floor size limit as provided in subsection 23.73.010.B.3.

2. Development potential may not be transferred from one lot to another except as allowed by this Chapter 23.73.

3. Development potential may be transferred from eligible sending ~~((lots))~~ sites meeting the conditions of subsection 23.73.024.C to locations outside the Pike/Pine Conservation Overlay District if TDP transfer to specifically-identified areas or lots is authorized by City ordinance.

B. Standards for character structure TDP receiving sites. A lot must meet the following conditions in order to be eligible to achieve extra residential floor area through TDP:

1. Character structure TDP receiving sites shall be located outside the Conservation Core identified on Map A for Section 23.73.010.

2. Development of the receiving site shall not result in the demolition or significant alteration of a ~~((character structure or a))~~ designated landmark((-)), and any character structure located on the receiving site that is not a designated landmark shall be retained as an entire structure according to the provisions of subsection 23.73.015.A, unless the Design Review Board has determined as provided in subsection 23.73.015.F that the character structure may be demolished. For designated landmarks, if the Landmarks Preservation Board grants a Certificate of Approval for an alteration, the alteration is not considered significant.

~~((For purposes of this Section 23.73.024, significant alteration of a character structure means:~~

~~a. For character structures that are not designated landmarks:~~

~~1) Alteration of the exterior façades of the character structure, except alterations that restore the façades to their original condition;~~

2) ~~Alteration of the floor to ceiling height of the street level story,~~
~~except alterations that restore the floor to ceiling height to its original condition; or~~

3) ~~The addition of stories to the character structure, unless the~~
~~proposed addition is no taller than the maximum height to which the character structure was~~
~~originally built.~~

b. ~~For character structures that are designated landmarks, if the~~
~~Landmarks Preservation Board grants a Certificate of Approval for an alteration, the alteration is~~
~~not considered significant.))~~

3. An additional 10 feet in height above the height limit of the zone is permitted
on TDP receiving sites.

4. ~~((AH))~~Any floor area ~~((above))~~that exceeds the FAR limit or the maximum
floor size limit, or((and above)) that is located above 65 feet in height shall be achieved through
the use of TDP.

5. Floor area gained through the use of TDP shall be for residential and live-work
unit use only.

6. For a structure that achieves an increase in height through the use of TDP, the
minimum street level floor-to-ceiling height shall be 13 feet.

7. TDP required before construction. No permit after the first building permit,
and in any event no permit for construction activity other than excavating or shoring, and no
permit for occupying existing floor area by any use based on TDP; will be issued for
development that includes TDP until the applicant has demonstrated possession of TDP to the
Director's satisfaction.

C. Standards for ~~((Sending Sites.))~~sending sites

1. TDP sending sites shall be located in an NC3P zone within the Pike/Pine
Conservation Overlay District, excluding NC3P zones with an MIO-105 overlay, and shall

1 contain one of the following structures; provided that character structures on the proposed TDP
2 sending site have not been demolished, or significantly altered as defined in subsection
3 ~~((23.73.024.B.2))~~ 23.73.015.A, since January 18, 2012 ~~((the effective date of this ordinance))~~:

4 a. One or more structures designated wholly or in part as a landmark
5 under Chapter 25.12 or its predecessor ordinance; or

6 b. Any character structure.

7 2. Maximum transferable floor area.

8 a. The maximum amount of floor area that may be transferred from an
9 eligible sending site with a character structure that is not a designated landmark is the product of
10 the eligible lot area of the sending site, times the maximum FAR for structures containing both
11 residential and nonresidential uses as prescribed in Section 23.47A.013, minus the sum of any
12 chargeable gross floor area on the sending site under the zoning in effect at the time a complete
13 application transferring TDP is accepted and any TDP previously transferred from the sending
14 site.

15 b. The maximum amount of floor area that may be transferred from an
16 eligible sending site with a designated landmark is the amount calculated in subsection
17 23.73.024.C.2.a multiplied by two.

18 c. For purposes of this subsection 23.73.024.C.2, the eligible lot area of
19 the sending site is the total area of the lot on which the character structure ~~((sending site at the~~
20 ~~date that the character structure--))~~ was originally built.

21 3. Rehabilitation and maintenance of character structures. Character structures
22 located on a TDP sending site shall be rehabilitated and maintained to comply with applicable
23 codes and shall have a minimum useful life of at least 50 years from the time the TDP transfer is
24 approved by the Director. If the TDP is proposed to be transferred prior to completing
25 rehabilitation work necessary to satisfy this subsection 23.73.024.C, the Director may require as
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1 a condition of the transfer that a security be deposited with the City in an amount determined by
2 the Director to ensure that the work is completed.

3 4. Significant alteration, as defined in subsection 23.73.024.B.2, of the character
4 structures on a TDP sending site is not permitted for at least 50 years from the time of the TDP
5 transfer.

6 D. TDP (~~((Deeds))~~deeds and (~~((Agreements.))~~agreements)

7 1. The fee owners of the TDP sending site shall execute a deed, and shall obtain
8 the release of the TDP from all liens of record and the written consent of all holders of
9 encumbrances on the sending lot other than easements and restrictions, unless the requirement
10 for a release or consent is waived by the Director for good cause. The deed shall be recorded in
11 the King County real property records. If TDP is conveyed to the owner of a TDP receiving site
12 described in the deed, then unless otherwise expressly stated in the deed or any subsequent
13 instrument conveying the lot or the TDP, the TDP shall pass with the receiving site whether or
14 not a structure using the TDP shall have been permitted or built prior to any conveyance of the
15 receiving site. Any subsequent conveyance of TDP previously conveyed to a receiving site shall
16 require the written consent of all parties holding any interest in or lien on the receiving site from
17 which the conveyance is made. If the TDP is transferred other than directly from the sending site
18 to the receiving site using the TDP; then after the initial transfer all subsequent transfers shall
19 also be by deed, duly executed, acknowledged, and recorded, each deed referring by King
20 County recording number to the prior deed.

21 2. Any person may purchase TDP that is eligible for transfer by complying with
22 this Section 23.73.024, whether or not the purchaser is a permit applicant to develop real
23 property or the owner of potential receiving site. Any TDP purchaser, including any successor or
24 assignee, may use TDP on a receiving site to the extent that using TDP is permitted under the
25 Land Use Code provisions applicable at the time the project intended to use the TDP vests,
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1 according to Section 23.76.026. The Director may require, as a condition of processing any
2 permit application using TDP, that the owner of the receiving site demonstrate that the TDP has
3 been validly transferred of record to the receiving site, and that the receiving site owner has
4 recorded in the real estate records a notice stating that a permit application using TDP has been
5 filed and the TDP to be used on the receiving site is not available for retransfer.

6 3. As a condition to the effective transfer of TDP from a designated landmark,
7 except from a City-owned sending site, the fee owner of the sending site shall execute and record
8 an agreement running with the land, in form and content acceptable to, and accepted in writing
9 by, the Director of Neighborhoods; providing for the rehabilitation and maintenance of the
10 historically-significant or other relevant features of the structure or structures on the lot and
11 acknowledging the restrictions on future development resulting from the transfer. The Director
12 may require evidence that each lien holder has effectively subordinated the lien to the terms of
13 the agreement, and that any holders of interests in the property have agreed to its terms. To the
14 extent that a landmark structure on the sending site, the presence of which is a condition to
15 eligibility to transfer TDP under the provisions of the zone, requires restoration or rehabilitation
16 for the long-term preservation of the structure or its historically or architecturally-significant
17 features, the Director of Neighborhoods may require as a condition to acceptance of the
18 necessary agreement that the owner of the sending site apply for and obtain a certificate of
19 approval from the Landmarks Preservation Board for the necessary work, or post security
20 satisfactory to the Director of Neighborhoods for the completing the restoration or rehabilitation.

21 E. Reservation in ~~((Deed))~~deed. Any TDP eligible for transfer may instead be reserved in
22 the conveyance of title to an eligible sending site by the express terms of the deed or other
23 instrument of conveyance reserving a specified amount of TDP, provided that an instrument
24 acceptable to the Director is recorded binding the sending site to the terms and conditions for
25 eligibility to send TDP under this Section 23.73.024. Any TDP so reserved shall be considered
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transferred from that site and later may be conveyed by deed without participation of the owner of the site.

F. Any agreement governing the use or development of the sending site shall provide that its covenants or conditions run with the land and shall be specifically enforceable by the City.

G. The eligibility of a sending site to transfer TDP and the amount transferable from a sending site, shall be determined as of the date of transfer from the sending site and shall not be affected by the date of any application, permit decision, or other action for any project seeking to use TDP.

Section 13. Section 23.84A.006 of the Seattle Municipal Code, which section was last amended by Ordinance 123589, is amended as follows:

23.84A.008 "C"

* * *

"Character structure" means a structure on a lot within the boundaries of the Pike/Pine Conservation Overlay District that has been in existence ~~((for at least 75 years))~~ prior to 1940, thereby contributing to the established scale, development pattern, and architectural character of the area.

* * *

1 Section 14. This ordinance shall take effect and be in force 30 days after its approval by
2 the Mayor, but if not approved and returned by the Mayor within ten days after presentation, it
3 shall take effect as provided by Seattle Municipal Code Section 1.04.020.

4 Passed by the City Council the ____ day of _____, 2013, and
5 signed by me in open session in authentication of its passage this
6 ____ day of _____, 2013.

7
8 _____
9 President _____ of the City Council

10
11 Approved by me this ____ day of _____, 2013.

12
13 _____
14 Michael McGinn, Mayor

15
16 Filed by me this ____ day of _____, 2013.

17
18 _____
19 Monica Martinez Simmons, City Clerk

20 (Seal)